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UN expert tells El Salvador not to use courts as political weapon

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GENEVA (5 November 2020) – The government of El Salvador must stop using the courts to attack opposition politicians and should not undermine court decisions, a UN expert said today.

“The executive branch of government must respect the independence of the judiciary and refrain from undermining its authority,” said Diego García-Sayán, UN special rapporteur on the independence of judges and lawyers.

“Judicial decisions must be carried out, not interpreted by other branches of government,” he said. “Courts also must not be discredited in the eyes of the public by using them as a weapon to attack members of opposition parties.”

The expert spoke in the wake of a long-standing conflict between the two branches of government, intensified by Tweets from President Nayib Bukele attempting to put pressure on the judiciary to speed up trials against opposition figures.

“I am particularly concerned about judicial harassment against Sigfrido Reyes and his family,” said García-Sayán. Reyes is a founding member of the opposition party Frente Farabundo Martí para la Liberación Nacional (FMLN) and served as President of the Legislative Assembly from 2011 to 2015.

The Supreme Court of Justice ordered the Attorney-General to open a trial against Reyes in July 2019, despite a report of the Probity Section of the same Court that there was no evidence of illicit enrichment by Reyes and his family. In order to escape this political persecution, Reyes sought protection in Mexico, which granted him asylum.

“These judicial proceedings have no legal basis; they seem to be part of a systematic strategy of persecution of political opponents through investigations and criminal cases that aim at intimidating, discrediting and politically annihilating opposition political parties and their leaders,” said the experts. “This is completely unacceptable in a democracy.”

Using his Twitter account, President Bukele allegedly played a major role in the trial of Reyes and members of his entourage.

“Use of the courts as an instrument of political harassment has no place in El Salvador’s democracy,” said the experts. “Independence of the judiciary is enshrined in the Constitution and the law of the country, and it is the duty of all State institutions, including the president, to respect and observe the independence of national courts,” they said.

This is not an isolated episode. In recent months, a series of violations of judicial independence appear

to have occurred as a result of declarations made in the press or on social media by members of the executive branch, particularly President Bukele.

Last September, President Bukele exhorted border authorities to disregard a decision of the Constitutional Chamber of the Supreme Court of Justice, which declared unconstitutional a decision of the executive branch. That executive decision had denied entrance to El Salvador by nationals and foreigners with the right of residence unless they presented a COVID test conducted in the previous 72 hours.

The president previously attacked judges of the Constitutional Chamber of the Supreme Court of Justice for another ruling, describing the judges as "hypocrites and bad lawyers."

"Judges should be free to decide matters before them impartially, on the basis of facts and in accordance with the law, without any pressure, threat or interference," the experts said. "There must not be any inappropriate or unwarranted interference with the judicial process, and national authorities must respect and abide by decisions of the Supreme Court."

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Mr. Diego García-Sayán took up his functions as [UN Special Rapporteur on the independence of judges and lawyers](#) in December 2016. He was formerly a judge of the Inter-American Court of Human Rights for two consecutive terms. During his tenure, he was elected Vice-President of the Court (2008-2009) and President of the Court for two consecutive terms (2009-2013). He has long-standing experience working on human rights issues in a variety of settings, including for the United Nations and the Organization of American States.

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